

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – SANTA ANA REGIONAL WATER BOARD
FEBRUARY 6, 2018**

ITEM 6

SUBJECT

CONSIDERATION OF A PROPOSED RESOLUTION TO AMEND THE WATER QUALITY CONTROL PLAN FOR THE SANTA ANA RIVER BASIN TO REVISE THE COMPLIANCE SCHEDULE FOR FECAL COLIFORM TOTAL MAXIMUM DAILY LOAD (TMDL) FOR SHELLFISH HARVESTING (SHEL) IN NEWPORT BAY; REVISE SHEL BENEFICIAL USE DEFINITION; ADD ANTIDegradation TARGETS FOR NON-CONTACT WATER RECREATION (REC2) ONLY WATERS; ADD CERTAIN WATERS TO TABLES 3-1 AND 4-1, AND DESIGNATE BENEFICIAL USES FOR THOSE AND OTHER SELECT WATERS; ADD CHAPTER 6 TMDLS AND INTRODUCTORY NARRATIVE, AND REVISE SUBSEQUENT CHAPTER NUMBERING; AND ADD FECAL INDICATOR BACTERIA FOOTNOTE TO CHAPTERS 4 AND 5

DISCUSSION

On June 16, 2017, the Santa Ana Regional Water Quality Control Board (Santa Ana Water Board) adopted [Resolution No. R8-2017-0019](#), approving amendments to the Water Quality Control Plan for the Santa Ana River Basin (Basin Plan) to revise the compliance schedule for the fecal coliform TMDL for SHEL for Newport Bay and other amendments to water quality standards. The fecal coliform TMDL established for Newport Bay in 1999 includes TMDL waste load and load allocations intended to assure that the SHEL objectives for fecal coliform (median concentration not more than 14 most probable number [MPN]/100 milliliters [ml] and not more than 10% of samples exceed 43 MPN/100 ml) would be achieved. Currently, the compliance schedule for the fecal coliform TMDL for SHEL is “as soon as possible but no later than December 30, 2019.”

Recent analyses of fecal coliform data show that compliance with the fecal coliform objectives for SHEL is strongly influenced by rainfall, even in trace amounts. The fecal coliform TMDL for SHEL does not distinguish between wet and dry weather nor does the TMDL account for inputs to Newport Bay from natural sources that result from rainfall or other sources (e.g., wildlife) and that are not within the reasonable control of the parties responsible for compliance with the TMDL.

A stakeholder group which includes the non-governmental environmental group Orange County Coast Keeper, dischargers subject to the fecal coliform TMDL, State Water Board and Santa Ana Water Board staff currently are working to recommend strategies to meet the SHEL objective. In light of the time it will take to develop and implement the stakeholder group’s recommendations, the Santa Ana Water Board determined that it was both necessary and appropriate to extend the date for compliance with the fecal coliform TMDL for SHEL for Newport Bay for three years, until December 31, 2022.

The amendments also include revising the SHEL beneficial use definition. Currently, the Basin Plan designates SHEL as supporting “habitats necessary for shellfish (e.g., clams, oysters, limpets, abalone, shrimp, crab, lobster, sea urchins, and mussels) collected for human

consumption, commercial or sports purposes.” In contrast, the SHEL definition employed statewide, including in the California Ocean Plan, refers to shellfish that are filter-feeding bivalve mollusks that do not include some of the organisms identified in the Basin Plan definition. The proposed revision of the SHEL definition, “waters support habitats necessary for filter feeding shellfish (e.g., clams, oysters and mussels) collected for human consumption, commercial, or sport purposes,” is intended to resolve this conflict and assure statewide consistency.

Other amendments include adding antidegradation targets for REC2 only waters. The Santa Ana Water Board adopted under [Resolution No. R8-2012-0001](#) numeric antidegradation pathogen indicator bacteria targets for waters designated REC2 only. As a result of the U.S. Environmental Protection Agency disapproving the Santa Ana Water Board’s recommended removal of the REC2 use for certain waters, Santa Ana Water Board staff recommended that the targets for three REC2 only waters be added.

Another amendment would add certain waters to Tables 3-1 and 4-1, and designate beneficial uses for those and other select waters. Additionally, an amendment would place all TMDLs in Chapter 6 of the Basin Plan with an introductory narrative and revise subsequent chapter numbering. Finally, footnotes were added to Chapters 4 and 5 explaining the different units that are used for expressing concentrations of fecal indicator bacteria.

An [Executive Officer Correction](#) was made to the Basin Plan amendments approved by Resolution No. R8-2017-0019. The correction adds a footnote to Tables 3-1 and 4-1 to clarify the boundaries of Hole Lake Creek, a proposed water to be added to the Basin Plan.

POLICY ISSUE

Should the State Water Board approve the amendments to the Basin Plan to revise the compliance schedule for the fecal coliform TMDL for SHEL In Newport Bay; revise the SHEL beneficial use definition; add antidegradation targets for REC2 only waters; add certain waters to Tables 3-1 and 4-1 and designate beneficial uses for those and other select waters; add Chapter 6 TMDLs and introductory narrative, and revise subsequent chapter numbering; and add a fecal indicator bacteria footnote to Chapters 4 and 5?

FISCAL IMPACT

Santa Ana Water Board staff work associated with or resulting from this action will be addressed with existing and future budgeted resources.

REGIONAL BOARD IMPACTS

Approval of this resolution will amend the Santa Ana Water Board’s Basin Plan.

STAFF RECOMMENDATION

That the State Water Resources Control Board (State Water Board)

1. Approve the amendments to the Basin Plan adopted under the Santa Ana Water Board’s Resolution No. R8-2017-0019.

2. Authorize the Executive Director or designee to submit the amendments adopted under Santa Ana Water Board Resolution No. R8-2017-0019 as approved and the administrative record for this action to the Office of Administrative Law.

State Water Board action on this item will assist the Santa Ana Water Board in reaching Goals 1 and 4 of the Strategic Plan: 2008-2012, 2010 Update: to protect and restore surface water quality and to comprehensively address water quality protection and restoration. In addition, this item will assist in reaching Goal 5 of the 2010 Update to improve transparency and accountability by ensuring that the Santa Ana Water Board goals and actions are clear and accessible, by demonstrating and explaining results achieved with respect to the goals and resources available, by enhancing and improving accessibility of data and information, and by encouraging the creation of organizations or agreements that advance this goal. In particular, approval of this item will assist in fulfilling Objective 4.3, Action 4.3.1, by which priority Basin Plan amendment needs are accomplished by collaborating in external stakeholder processes to address Santa Ana Water Board and Stakeholder interest with resources provided by the stakeholders.

DRAFT

STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2018-

APPROVING AN AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR THE SANTA ANA RIVER BASIN TO REVISE THE COMPLIANCE SCHEDULE FOR THE FECAL COLIFORM TOTAL MAXIMUM DAILY LOAD FOR SHELLFISH HARVESTING IN NEWPORT BAY; REVISE THE SHELLFISH HARVESTING BENEFICIAL USE DEFINITION; ADD ANTIDEGRADATION TARGETS FOR NON-CONTACT WATER RECREATION ONLY WATERS; ADD CERTAIN WATERS TO TABLES 3-1 AND 4-1 AND DESIGNATE BENEFICIAL USES FOR THOSE AND OTHER SELECT WATERS; ADD A TMDL SPECIFIC CHAPTER TO THE BASIN PLAN AND INCLUDE AN INTRODUCTORY NARRATIVE TO THIS CHAPTER, AND REVISE SUBSEQUENT CHAPTER NUMBERING; AND ADD FECAL INDICATOR BACTERIA FOOTNOTES TO CHAPTERS 4 AND 5

WHEREAS:

1. On June 16, 2017, the Santa Ana Regional Water Quality Control Board (Santa Ana Water Board) adopted [Resolution No. R8-2017-0019](#), approving amendments to the Water Quality Control Plan for the Santa Ana River Basin (Basin Plan) that revise the compliance schedule for the fecal coliform total maximum daily load (TMDL) for shellfish harvesting (SHEL) in Newport Bay; revise the SHEL beneficial use definition; add antidegradation targets for non-contact water recreation (REC2) only waters; add certain waters to Tables 3-1 and 4-1 and designate beneficial uses for those and other select waters; add a new Basin Plan Chapter 6 specific to TMDLS and include an introductory narrative for Chapter 6, and revise subsequent chapter numbering; and add fecal indicator bacteria footnotes to Chapters 4 and 5.
2. On November 27, 2017, the Santa Ana Water Board received a comment from the City of Riverside requesting that a footnote be added to the amendment to clarify the boundaries of Hole Lake Creek, a proposed water to be added to the Basin Plan. In response to the comment, an [Executive Officer Correction](#) was made to the amendments approved by the Regional Water Board Resolution No. R8-2017-0019 to add the requested footnote to clarify the boundaries of Hole Lake Creek. The correction is a minor technical change.
3. The State Water Resources Control Board (State Water Board) finds that, in amending the Basin Plan, the Santa Ana Water Board complied with the requirements set forth in sections 13240, 13241, 13242, and 13244 of the Water Code.
4. The Santa Ana Water Board found that the amendments would not result in a lowering of water quality and were, thus, consistent with State and federal antidegradation policies (State Water Board's [Resolution No. 68-16](#); 40 CFR 131.12). The State Water Board agrees with these determinations.
5. The Santa Ana Water Board conducted analyses of the amendments pursuant to the California Environmental Quality Act (CEQA) and implementing regulations, including those regulations established by the State Water Board (California Code of Regulations, Title 23, Division 3, Chapter 27, commencing with sections 3720). In adopting the amendments, the Santa Ana Water Board found that no fair argument

exists that the amendments could have any reasonably foreseeable significant adverse effects on the environment and certified the environmental checklist and analysis included as part of the Substitute Environment Document prepared for the amendments. The State Water Board concurs with the Santa Ana Water Board's findings and determination.

6. The Santa Ana Water Board found that the amendments meet the necessity standard of the Administrative Procedures Act, Government Code section 11353, subdivision (b). The State Water Board agrees with this determination.
7. The Basin Plan amendments do not become effective until approved by the State Water Board and until the regulatory provisions are approved by the Office of Administrative Law (OAL). The revisions to water quality standards specified in the amendments must also be approved by the U.S. Environmental Protection Agency (U.S. EPA).

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Approves the amendments to the Basin Plan adopted by Santa Ana Water Board Resolution No. R8-2017-0019; and
2. Authorizes the Executive Director or designee to submit the amendment adopted under Santa Ana Water Board Resolution No. R8-2017-0019 and the administrative record for this action to OAL for approval of the regulatory provisions and to U.S. EPA for approval of the water quality standards amendments.

CERTIFICATION

The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on February 6, 2018.

Jeanine Townsend
Clerk to the Board